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**MATT BLUNT**

**SECRETARY OF STATE**

# MISSOURI REGISTER

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The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

# Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 2000), are available in the listed depository libraries, as selected by the Missouri State Library:

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are cited in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



## **FROM THIS ANGLE....**

### **Thanks to all of you!**

The Administrative Rules Division would like to thank you for your attendance and participation in our first rulemaking class held on Thursday, May 31<sup>st</sup>. We hope you found this first *organizational* meeting interesting and informative, and, we hope you will pass on any additional thoughts or tips you may have to share since our first meeting. We want this *new and improved* Rulemaking Manual to be as helpful and "user friendly" as possible. We appreciate your help and your input and believe through coordinated efforts this *new and improved* manual will soon be a reality.

### **Delegation of Authority - REMINDER!!!**

With the change of administration, please remember we need to have letters on file stating who the Directors are in your Department/Division and, also, please remember to provide us with a written record of the pertinent signature. In the event someone else is authorized to sign for your Director in his or her absence, please provide us with those signatures as well. It is extremely important for us to obtain this information from you to maintain in our files, so that we allow filing of rules on behalf of your agency only by those persons designated to do so by your agency. Thanks in advance for your attention to this request.

### **Final orders of rulemaking**

Just a reminder . . . when filing an order please insert the full text of **all** sections or subsections included in the order, even if you did not change the text as printed in the proposed rulemaking.

### **"Tip" -- Deleting text in a proposed amendment**

Just a tip. In any proposed rulemaking, please be certain that you submit text inside the brackets shown in *Italics* typeface. This will avoid any possible error in reflecting your deleted text. Example: [*In order to remove an item, please remember to utilize Italics inside your brackets. . . .*]

**Welcome two new faces!!**

We have two new employees in the Administrative Rules Division.

John Stegmann comes to us from Wolfner Library and is our new Composing Equipment Operator I. John began with this division on May 1 and is doing a great job for us!

Sarah Strobel is our new Administrative Aide I and comes to us from the State Library. Sarah will be our backup receptionist and also an additional proofreader. Sarah joined our staff on May 16<sup>th</sup> and is rapidly learning our process.

We are happy to have both John and Sarah as a part of this division - and know you will want to welcome them when you are in the office to file your rules.

As always, if you have any questions, concerns or problems, or, if we may be of any assistance to you in any way, please feel free to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lynne", written in black ink.

Lynne C. Angle, Director  
Administrative Rules Division

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Title 11—DEPARTMENT OF PUBLIC SAFETY Division 40—Division of Fire Safety Chapter 5—Elevators

### EMERGENCY AMENDMENT

**11 CSR 40-5.065 Missouri Minimum Safety Codes for Existing Elevator Equipment.** The division is amending subsection (1)(H).

*PURPOSE: The purpose of this amendment is to ensure that all elevators and similar equipment regulated under the Missouri Elevator Safety Act in Missouri obtain safety inspections this year.*

*EMERGENCY STATEMENT: The Division of Fire Safety finds that an immediate danger to the public health, safety and welfare exists. The legislature has found that elevators and similar equipment regulated under the Missouri Elevator Safety Act should be inspected and tested annually to prevent the operation of unsafe equipment. Due to the number of existing elevator installations around the state having been installed during a period of time when no state enforced codes existed, a large number of these installations do not meet the minimum elevator safety standards adopted by the Elevator Safety Board. Existing equipment that does not meet the minimum state standard must apply for a variance. For existing installations, this proposed amendment will provide for a "grandfathering clause" allowing specific conditions to*

*remain at a status quo and eliminate a timely variance process. Eliminating the need to follow variance procedures and reviews, will allow additional time to be devoted to more immediate safety issues, protecting the public from unsafe situations. The scope of this amendment is limited to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitution. Emergency amendment filed April 30, 2001, effective May 10, 2001, expires November 5, 2001.*

(1) The following standards apply to all existing elevator equipment installed prior to the effective date of these rules and regulations as provided in 11 CSR 40-5.060. Any installation which is in compliance with the latest ASME A17.1 version adopted and amended by the Elevator Safety Board, unless as exempted by 701.359, RSMo shall be considered to be in compliance with 11 CSR 40-5.065. The foregoing standards are incorporated by reference in this rule.

#### (H) Machine Rooms.

1. All means of access to elevator machine rooms shall be of a permanent nature and shall be constructed and maintained in a clear and unobstructed manner.

2. The elevator machine and control equipment shall be located in a separate room or separated space designed as an elevator machine room or space and shall be accessible only to authorized personnel. [from other] Existing machines and equipment [by a substantial grill of not less than six feet (6') high.] essential to the operation and purpose of the building are permitted but must not interfere with the safety and work area for maintaining elevator equipment. Where other existing machines and equipment essential to the operation and purpose of the building are located in the machine room or space, the elevator related equipment and machines shall be separated by a substantial grill constructed of non-combustible material not less than six feet (6') high and [T]he grill shall be of a design that will reject a ball two inches (2") in diameter. All rooms or enclosures shall have a self-closing and self-locking door and shall be operable from the interior space without use of a key. After the effective date of this rule, no equipment shall be added to the machine room or space that is not used in connection with the operation of the elevator.

3. All elevator machine rooms shall be provided with a floor. The floor shall cover the entire area of the machine room and hoistway.

4. Machine room floors shall be kept clean and free of grease and oil. Articles or materials not necessary for the maintenance or operation of the elevator shall not be stored therein. Flammable liquids having a flash point of less than one hundred ten degrees Fahrenheit (110°F) shall not be stored in the machine room.

5. Lighting in the machine room shall be not less than ten (10) foot-candles at floor level.

6. Where there is more than one machine in a room, each machine shall have a different number conspicuously marked on it. The controller, disconnect switch and relay panels for each machine shall be conspicuously numbered to correspond to the machine it controls.

7. All electrical equipment in the machine room shall be grounded which shall conform to ASME A17.1 and NFPA 70 (NEC).

8. All electrical wiring in the machine room and hoistway shall be enclosed in metal conduit, flexible conduit or metal raceways.

9. Each elevator having polyphase alternating current power supply shall be provided with means to prevent the starting of the elevator motor if:

A. The phase rotation is in the wrong direction; or

B. There is a failure of any phase. This protection shall be considered provided in the case generator-field control having alternating current motor-generator driving motors, provided a reversal of phase will not cause the elevator driving-machine motor to operate in the wrong direction. Controllers whose switches are operated by polyphase torque motors provide inherent protection against phase reversal or failure.

*AUTHORITY: section 701.355, RSMo [1994] 2000. Original rule filed Aug. 26, 1998, effective July 1, 1999. Amended: Filed Aug. 17, 2000, effective Feb. 28, 2001. Emergency amendment filed April 25, 2001, effective May 10, 2001, expires Nov. 5, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

## Title 19—DEPARTMENT OF HEALTH

### Division 25—Division of Administration

#### Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva and Urine Analysis; and Determination for the Presence of Drugs in Blood and Urine

#### EMERGENCY AMENDMENT

**19 CSR 25-30.011 General Provisions for the Determination of Blood, Breath, Saliva or Urine Analysis and Drug Testing.** The department proposes to amend sections (1) and (3).

*PURPOSE: This amendment is being made to add additional statutes that are covered by this chapter.*

*EMERGENCY STATEMENT: This emergency amendment will help assure public health and safety by adding additional statutes that are covered by this chapter, thus assuring breath tests pursuant to Missouri State Water Patrol Water Safety Regulations, Sections 306.III–306.II9, RSMo for operating a vessel with excessive blood alcohol content will be admissible into evidence during legal proceedings. The department finds an immediate danger to the public health safety and welfare that this amendment alleviates, as it will help prosecute intoxicated vehicle and vessel operators and follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. As a result, Missouri Department of Health finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires emergency action. This amendment complies with the protections extended by the Missouri and United States Constitutions. The scope of this emergency amendment limits itself to adding additional statutes that are covered by this chapter. This emergency amendment was filed on May 10, 2001, effective May 22, 2001 and expires November 17, 2001.*

(1) Only those laboratories or persons performing analysis of blood, breath, urine or saliva for the determination of blood alcohol content, or of blood and urine for the presence of drugs—at the direction of a law enforcement officer acting under provisions of sections 577.020–577.039, RSMo and 577.041, RSMo and **306.111–306.119 RSMo**—are subject to the rules of this chapter.

(3) The chemical analysis of a person's blood, breath, urine or saliva conducted under the provisions of 577.020–577.039, RSMo, and 577.041, RSMo, and **306.111–306.119 RSMo**, shall be performed by licensed medical personnel or by personnel possessing a valid permit issued by the department.

*AUTHORITY: sections [192.005.2] 192.006, 306.114, 306.117, 577.020, 577.026, 577.029, 577.031, 577.033, 577.039, [RSMo 1986] 577.023, 577.041, [RSMo Supp. 1991] and 577.037, RSMo [1988] 2000. This rule previously filed as 19 CSR 20-30.011. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.011 January 1, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 10, 2001, effective May 22, 2001, expires Nov. 17, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

## Title 19—DEPARTMENT OF HEALTH

### Division 25—Division of Administration

#### Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva and Urine Analysis; and Determination for the Presence of Drugs in Blood and Urine

#### EMERGENCY AMENDMENT

**19 CSR 25-30.050 Approved Breath Analyzers.** The department proposes to amend section (1) and add a new section (3).

*PURPOSE: This amendment is being proposed to approve the Alco-Sensor IV for use with an Intoximeter, Inc. printer in addition to the RBT IV and a new section is being added to assure that breath tests performed on the Alco-Sensor IV/RBT IV prior to this amendment will continue to be considered valid. Also, this amendment removes the Intoxilyzer models 1400 and 5000CD which are no longer in production or in use in the state of Missouri.*

*EMERGENCY STATEMENT: This amendment is being proposed to approve the Alco-Sensor IV for use with an Intoximeter, Inc. printer in addition to the RBT IV and a new section is being added to assure that breath tests performed on the Alco-Sensor IV/RBT IV prior to this amendment will be considered valid. Also, this amendment removes the Intoxilyzer models 1400 and 5000CD which are no longer in production or in use in the state of Missouri. This emergency amendment will help assure public health and safety by ensuring that breath tests for excessive blood alcohol content performed on the Alco-Sensor IV used with an Intoximeter, Inc. printer in addition to the RBT IV will be admissible into evidence during legal proceedings. This amendment will further ensure that breath tests for excessive blood alcohol content performed on the Alco-Sensor IV/RBT IV prior to the amendment will continue to be valid and admissible in legal proceedings. The department finds an immediate danger to the public health, safety and welfare that this amendment alleviates, as it will help prosecute cases of excessive blood alcohol content and follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. As a result, Missouri Department of Health finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires emergency action. This amendment complies with the protections extended by the Missouri and United States Constitutions. The scope of this emergency amendment limits itself to approving the Alco-Sensor IV for use with an Intoximeter, Inc. printer in addition to the RBT IV. Also, this amendment removes the Intoxilyzer models 1400 and 5000CD that are no longer in production or in use in the state of Missouri. This emergency amendment was filed on May 10, 2001, effective May 22, 2001 and expires November 17, 2001.*

(1) Approved breath analyzers are—



NAME OR ITEM	MANUFACTURER
Alco-Sensor IV[/RBT IV] with printer*	Intoximeters, Inc., St. Louis, MO
BAC Verifier and DataMaster	National Patent Analytical Systems, Inc., Mansfield, OH (formerly a subsidiary of National Patent Development Corporation, East Hartford, CT, formerly Verax Sys- tems, Inc., Fairport, NY)
/Intoxilyzer 1400 *	CMI/MPH, Opera- tions of MPD, Inc. Owensboro, KY (formerly a sub- sidiary of Federal Signal Corp., Minturn, CO)]
Intoxilyzer, Models 5000 [and 5000 CD]	CMI/MPH, Operations of MPD, Inc., Owensboro, KY (formerly CMI, Inc., a subsidiary of Federal Signal Corp., Minturn, CO)

\*The Alco-Sensor IV [/RBT IV and Intoxilyzer 1400 are] with printer is approved for use as a bench-top instrument/s/ to be located within buildings or specially equipped trucks or vans specifically used for driving-while-intoxicated enforcement. [These] This instrument/s are/ is not approved for mobile use in cars, boats or outside areas.

(3) Breath tests performed on the Alco-Sensor IV/RBT IV prior to the effective date of this rule shall be considered valid under this rule if such tests were completed in compliance with the rules in effect at the time the test was conducted.

*AUTHORITY: sections 192.006, 306.114, 306.117, 577.020, 577.037, 577.039, [and] 577.041, [RSMo Supp. 1997 and] 577.023, 577.026, 577.029, 577.031 and 577.033, RSMo [1994] 2000. This rule was previously filed as 13 CSR 50-140.050 and 19 CSR 20-30.050. Original rule filed Oct. 1, 1965, effective Oct. 13, 1965. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 10, 2001, effective May 22, 2001, expires Nov. 17, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 19—DEPARTMENT OF HEALTH  
Division 25—Division of Administration  
Chapter 30—Determination of Blood Alcohol by Blood,  
Breath, Saliva and Urine Analysis; and Determination  
for the Presence of Drugs in Blood and Urine**

**EMERGENCY AMENDMENT**

**19 CSR 25-30.070 Approval of Methods for the Determination of Blood Alcohol Content From Samples of Blood, Urine or Saliva.** The department proposes to amend section (1).

*PURPOSE: This amendment is being made to add additional statutes that are covered by this chapter.*

*EMERGENCY STATEMENT: This emergency amendment will help assure public health and safety by adding additional statutes that are covered by this chapter thus assuring breath tests pursuant to Missouri State Water Patrol Safety Regulations, Sections 306.111-306.119, RSMo for operating a vessel with excessive blood alcohol content will be admissible into evidence during legal proceedings. The department finds an immediate danger to the public health, safety and welfare that this amendment alleviates, as it will help prosecute intoxicated vehicle and vessel operators and follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. As a result, Missouri Department of Health finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires emergency action. This amendment complies with the protections extended by the Missouri and United States Constitutions. The scope of this emergency amendment limits itself to adding additional statutes that are covered by this chapter. This emergency amendment was filed on May 10, 2001, effective May 22, 2001, and expires November 17, 2001.*

(1) Blood samples shall be taken in accordance with the provisions of section 577.029, and 306.111-306.119 RSMo.

*AUTHORITY: sections [192.005.2] 192.006, 306.114, 306.117, 577.020, 577.026, 577.029, 577.031, 577.033, 577.039, [RSMo (1986)] 577.023, 577.041, [RSMo Supp. 1991] and 577.037, RSMo [Supp. 1988] 2000. This rule previously filed as 19 CSR 20-30.070. Emergency rule filed May 21, 1987, effective May 31, 1987, expired Sept. 28, 1987. Original rule filed May 21, 1987, effective Aug. 27, 1987. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 10, 2001, effective May 22, 2001, expires Nov. 17, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 19—DEPARTMENT OF HEALTH  
Division 25—Division of Administration  
Chapter 30—Determination of Blood Alcohol by Blood,  
Breath, Saliva and Urine Analysis; and Determination  
for the Presence of Drugs in Blood and Urine**

**EMERGENCY AMENDMENT**

**19 CSR 25-30.080 Approval of Methods for the Analysis of Blood and Urine for the Presence of Drugs.** The department proposes to amend section (1).

*PURPOSE: This amendment is being made to add additional statutes that are covered by this chapter.*

*EMERGENCY STATEMENT: This emergency amendment will help assure public health and safety by adding additional statutes that are covered by this chapter thus assuring breath tests pursuant to Missouri State Water Patrol Water Safety Regulations, Sections 306.111-306.119, RSMo for operating a vessel with excessive blood alcohol content will be admissible into evidence during legal proceedings. The department finds an immediate danger to the public health, safety and welfare that this amendment alleviates, as it will help prosecute intoxicated vehicle and vessel operators and follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. As a result, Missouri Department of Health finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires emergency action. This amendment complies with*

*the protections extended by the Missouri and United States Constitutions. The scope of this emergency amendment limits itself to adding additional statutes that are covered by this chapter. This emergency amendment was filed on May 10, 2001, effective May 22, 2001, and expires November 17, 2001.*

(1) Samples of blood or urine shall be collected in accordance with the provision of section 577.029, **and 306.111–306.119** RSMo and a sufficient volume of sample shall be collected to provide for duplicate testing.

*AUTHORITY: sections [192.005.2] 192.006, 306.114, 306.117, 577.020, 577.026, 577.029, 577.031, 577.033, 577.039, [RSMo 1986] 577.023, 577.041, [RSMo Supp. 1991] and 577.037, RSMo [Supp. 1988] 2000. This rule previously filed as 19 CSR 20-30.080. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.080 Jan. 1, 1995. Emergency amendment filed May 10, 2001, effective May 22, 2001, expires Nov. 17, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.*